

1 women that were employed there. It wasn't -- I only found
2 one that made a statement to Mike Rice that caused the whole
3 damn problem. The rest of the women said, "No, we didn't
4 say anything."

5 Of course, I realize that's my word against Ms.
6 Rice's word. Excuse me. You've got me doing it now. Ms.
7 Cox.

8 Q You testified on cross that you had taken a
9 position as senior sales position --

10 A Yes.

11 Q -- now?

12 A Yes.

13 Q Why did you take that position?

14 A Well, my career dated the career of general
15 managers of radio stations. The FCC with their infinite
16 wisdom of allowing dualopolies, multiple station ownerships
17 in all the markets has diminished the use of general
18 managers significantly around the country, and I fell a
19 victim to this particular situation.

20 And I found myself in the northland, and I decided
21 to go back home and do what I started doing when I started
22 doing radio, and that was fine.

23 Q Did your wife's condition have anything to do with
24 your taking --

25 A No, she wasn't -- she didn't have that problem at

1 this particular time. But we wanted to go home. We had
2 been, as pointed out earlier, had been on the circuit so to
3 speak, and we were just tired and we wanted to go back to
4 our -- I've got children that live in Memphis and
5 grandchildren and what have you, and we wanted to go back
6 and spend the last few years of our lives, I guess, in that
7 confine, and that's what we decided to do.

8 MR. ZAUNER: Okay, no further questions, Your
9 Honor.

10 JUDGE STEINBERG: Okay, I have just one.

11 When you had the meeting with Ms. Cox and Mr. Rice
12 where you were terminated, did either of them tell you that
13 your termination had anything to do because of complaints by
14 the female employees?

15 THE WITNESS: Not at all.

16 JUDGE STEINBERG: Okay.

17 THE WITNESS: That female things occurred in
18 April. This was December. They had not another word about
19 this in the balance of the time I was employed there.

20 JUDGE STEINBERG: In your own mind, did you think
21 that that's why you were fired?

22 THE WITNESS: No.

23 JUDGE STEINBERG: Okay, then I just want to just
24 state for the record that Mr. Rhea was noticed for
25 deposition but that his deposition was not taken; is that

1 correct?

2 MR. GAFFNEY: That's correct.

3 MS. SADOWSKY: We did interview him.

4 MR. GAFFNEY: We spoke to him on the phone. We
5 did it informally.

6 JUDGE STEINBERG: Okay. Anything?

7 Okay, you are excused. Mr. Rhea. Thank you very
8 much for coming and testifying, and have a safe trip back.

9 THE WITNESS: Thank you, sir.

10 (Witness excused.)

11 JUDGE STEINBERG: Let's go off the record.

12 (Discussion off the record.)

13 JUDGE STEINBERG: There are some housekeeping
14 things that need to be done before -- are you going to ask
15 for further --

16 MS. SADOWSKY: Yes, we are going to ask for
17 surrebuttal, Your Honor. We are going to ask to have Janet
18 Cox testify and Richard Hauschild, the general manger of
19 KFMZ.

20 MR. ZAUNER: We have no objection to that.

21 JUDGE STEINBERG: Okay, what dates are we talking
22 about?

23 MS. SADOWSKY: Your Honor, we would like to have
24 them testify tomorrow. Janet Cox is in Washington expecting
25 to be called tomorrow. She may be here. We don't know.

1 She is due in.

2 JUDGE STEINBERG: I better get the courtroom for
3 tomorrow then, shouldn't I?

4 MS. SADOWSKY: Well, we assumed that you had this
5 whole week set out.

6 JUDGE STEINBERG: Yes, I just have to tell
7 somebody because I told them this morning -- I didn't know
8 we were going to do it this quickly.

9 MR. ZAUNER: No, I didn't.

10 JUDGE STEINBERG: Okay, but you have no problem?

11 MR. ZAUNER: I have no problem with it, no.

12 JUDGE STEINBERG: Okay, so then -- okay, we will
13 do that, and let's go off the record and I will go tell them
14 now because there is something about 3:00 being the
15 bewitching hour or something.

16 (Whereupon, a recess was taken.)

17 JUDGE STEINBERG: I have -- there were two -- I
18 have like four things that needed to be done. The first one
19 was that statement, the 1.65 statement.

20 MS. SADOWSKY: Yes, Your Honor.

21 JUDGE STEINBERG: Do you want me --

22 MS. SADOWSKY: Would you like to make it an ALJ
23 exhibit?

24 JUDGE STEINBERG: I was going to say Mr. Gaffney
25 was uncomfortable making it a --

1 MR. GAFFNEY: And we are submitting this over
2 objection, of course, to provide further discovery in this
3 matter.

4 JUDGE STEINBERG: Well, it's not really discovery.
5 It's just something that I think ought to be in the record
6 that isn't there, and everybody knows about it. But we can
7 make it -- I mean, we can call it anything we want.

8 MR. GAFFNEY: Yes. To the extent that it's not
9 our burden of proof, I would just submit it over objection,
10 Your Honor. And I understand that my objection has been
11 overruled several times.

12 JUDGE STEINBERG: You are free to make it again
13 and have it overruled again.

14 MR. GAFFNEY: I object, Your Honor.

15 JUDGE STEINBERG: Okay. Overruled.

16 Okay, we will mark for identification as Judge's
17 Exhibit No. 1, that's apostrophe "s" a six-page document.
18 The first page is on Rosenman & Colin letterhead, dated June
19 21, 1991, signed by Jerold L. Jacobs, and the remaining
20 pages are a statement pursuant to Section 1.65 of the
21 Commission's Rules, signed and dated 6/20/91, signed by
22 Janet Cox.

23 And as I said, that document will be marked for
24 identification as Judge's Exhibit No. 1.

25 //

1 (The document referred to was
2 marked for identification as
3 Administrative Law Judge's
4 Exhibit No. 1.)

5 JUDGE STEINBERG: And I will receive it over
6 objection of counsel for the Licensee.

7 (The document referred to,
8 having been previously marked
9 for identification as
10 Administrative Law Judge's
11 Exhibit No. 1, was received in
12 evidence.)

13 JUDGE STEINBERG: Okay, that takes care of that.
14 Now, I have to get a new binder for the Judge's
15 exhibits.

16 Okay, now, the next thing was I asked counsel to
17 find out how much Mr. Rice was paid between April 3, '91 and
18 September 30, 1994.

19 MR. GAFFNEY: And again, Your Honor, we understood
20 your order. We are going to submit that again over
21 objection.

22 JUDGE STEINBERG: Okay. do you want me to make
23 that a Judge's exhibit too.

24 MR. GAFFNEY: As you said, I believe, in the
25 transcript that we can tell you orally.

1 JUDGE STEINBERG: Right.

2 MR. GAFFNEY: And I am prepared to do that.

3 JUDGE STEINBERG: If you want to put it on -- you
4 know, if you have a piece of paper, I will just introduce a
5 piece of --

6 MR. GAFFNEY: I have some privileged
7 attorney/client communication

8 JUDGE STEINBERG: Oh, well, we can put those in
9 too.

10 MR. GAFFNEY: No, thank you, Your Honor. I would
11 rather just put in the numbers.

12 From the period of 4-1-91 through 12-31-91,
13 \$45,000.

14 JUDGE STEINBERG: Okay 4-91 to 12-31?

15 MR. GAFFNEY: '91. \$45,000.

16 JUDGE STEINBERG: Okay

17 MR. GAFFNEY: From the period January 1, '92
18 through December 31, '92, \$60,000.

19 JUDGE STEINBERG: Six-zero?

20 MR. GAFFNEY: Six-zero

21 From the period January 1, '93 through 12-31-93,
22 \$75,010.

23 JUDGE STEINBERG: 75,010?

24 MR. GAFFNEY: Correct.

25 And from the period 1-1-94 through 9-30-94,

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1 \$58,504.

2 JUDGE STEINBERG: 58,504?

3 MR. GAFFNEY: And 55 cents.

4 Again, Your Honor, we are submitting those, I
5 believe that these are matters that the burden of proof of
6 the bureau and we are submitting them understanding that our
7 objection is overruled.

8 JUDGE STEINBERG: Okay. Thank you.

9 Now, the third item was we had dates -- Mr. Rice's
10 hospitalization began on April 3, '91, and do you know the
11 termination date?

12 MS. SADOWSKY: Your Honor, we do not know.

13 MR. GAFFNEY: The closest we have been able to
14 come up with, Your Honor, again over objection, but that
15 piece of information is October of that year.

16 JUDGE STEINBERG: So it would be some time in
17 October '91?

18 MR. GAFFNEY: Some time in October.

19 JUDGE STEINBERG: Okay.

20 MR. GAFFNEY: And with regard to the termination
21 and firing date of Mr. Rhea, we have already settled that.

22 JUDGE STEINBERG: Correct.

23 You know, the October '91, that's fine for the
24 record. I don't need an exact date. I think we just want
25 to get a flavor for the duration.

1 And the last one, this might be covered -- is this
2 covered by one of your exhibits. the -- oh, no, it's not.
3 The date of the second amended information, which is Bureau
4 Exhibit 1, Attachment 1?

5 MR. MASTANDO: Your Honor, we have the amended
6 information, and the information

7 JUDGE STEINBERG: Right

8 MR. MASTANDO: The other information is being sent
9 to us from Rebecca Shaffer of the St. Charles County Court.
10 She is a prosecutor there.

11 JUDGE STEINBERG: Because the -- okay, we have got
12 the --

13 MR. MASTANDO: You should have the second amended
14 information in the part of the file already.

15 JUDGE STEINBERG: Yes, I got it as part of the
16 file, but it doesn't have a date.

17 MR. MASTANDO: Yes, she is providing that
18 information for us.

19 JUDGE STEINBERG: And what you need is you need --
20 well, page -- let me see. It's Mass Media Bureau Exhibit 1,
21 page 11, we need something that shows the date.

22 MR. MASTANDO: She is sending that to us, Your
23 Honor.

24 JUDGE STEINBERG: Okay. Okay, so that one, we
25 still need to get that.

1 Now, do you want to do your information and
2 amended information? I think your last number 11, so the
3 first number today will be 12.

4 MR. ZAUNER: Okay. Your Honor, I would like to
5 have marked for identification a three-page document headed
6 "Prosatty," and that is prosecuting attorney, St. Charles
7 County at the top, and below that is the word "Information."
8 The top of the word "Information" is cut off on the first
9 page. This is a three-page document. It's on the -- it
10 states that it's the State of Missouri, County of St.
11 Charles, and the Circuit Court of St. Charles County,
12 Missouri.

13 And the last page of it is a certificate of true
14 copy, bearing a signature of Deanna Mussmann. The second
15 page of the document includes a number of signatures,
16 including that of the prosecuting attorney for the County of
17 St. Charles, and the clerk of the circuit court's signature.

18 Your Honor, at this time I would like to have
19 marked for identification as Mass Media Bureau Exhibit No.
20 12 the afore-described document

21 JUDGE STEINBERG: Okay, the document described
22 will be so marked.

23 (The document was marked for
24 identification as Mass Media
25 Bureau Exhibit No. 12.)

1 MR. GAFFNEY: Objections, Your Honor?

2 JUDGE STEINBERG: Are you going to offer it, or
3 are you going to identify the other one first?

4 MR. ZAUNER: Your Honor, I would offer --

5 JUDGE STEINBERG: You're going to have the same
6 objections to both of them, right?

7 MR. GAFFNEY: Well, they are coming late in the
8 day. We have a request for admissions that we have signed.
9 We have admitted to the dates, pertinent dates. We have
10 admitted to the printed documents. We are now --

11 JUDGE STEINBERG: Well, it's basically going to be
12 the same objection, right?

13 MR. GAFFNEY: Same objection as what? I'm not
14 sure.

15 JUDGE STEINBERG: To both.

16 MR. GAFFNEY: OH, to both of these documents?

17 JUDGE STEINBERG: Yes

18 MR. GAFFNEY: That's correct.

19 JUDGE STEINBERG: Let's get them both identified
20 and then --

21 MR. GAFFNEY: All right.

22 JUDGE STEINBERG: So we don't have to argue them
23 twice.

24 MR. ZAUNER: Your Honor, at this time I would like
25 to have identified as Mass Media Bureau Exhibit 13 a seven-

1 page document. The first page is entitled "Amended
2 Information," and it indicates the State of Missouri, County
3 of St. Charles, and the Circuit Court of St. Charles County,
4 Missouri, Circuit Judge Division

5 The last page of the document is a certificate of
6 true copy.

7 Your Honor, I would like to have this document
8 marked for identification.

9 JUDGE STEINBERG: I get eight pages.

10 MR. ZAUNER: I am dealing with the fax pages that
11 stick together, Your Honor. I probably should count them.

12 I get eight on the second count. I stand correct.
13 It is eight pages.

14 JUDGE STEINBERG: Okay, the document described
15 will be marked for identification as Mass Media Bureau
16 Exhibit No. 13.

17 (The document referred to was
18 marked for identification as
19 Mass Media Bureau Exhibit No.
20 13.)

21 MR. ZAUNER: Your Honor, at this time I offer into
22 evidence Mass Media Bureau Exhibit 12 and Mass Media Bureau
23 Exhibit 13.

24 MR. GAFFNEY: Your Honor, we would object to the
25 admission at this point. This is not evidence to come in

1 with the rebuttal witnesses today. It's not evidence that
2 couldn't have been offered in the case in chief. And more
3 importantly, it's not accurate, at least to this respect, or
4 not useful.

5 The amended information was amended by the second
6 amended information, and that is Mass Media Bureau's Exhibit
7 No. 1. It contains 12 counts. This amended information
8 that predates it has 15 counts, which were, by the way,
9 which were amended and reduced. It has really no bearing on
10 the record of the criminal case and shouldn't have any
11 bearing here.

12 JUDGE STEINBERG: Okay, let me just short circuit
13 this. These -- I think in the last hearing session I asked
14 that these be introduced; isn't that correct?

15 MR. ZAUNER: That's correct, Your Honor.

16 JUDGE STEINBERG: And I mentioned, I said here is
17 the second amended information. Now, there was an
18 information and a first amended information. I think they
19 belong in the record. And I am going to receive it for that
20 purpose, for background purposes. I mean, not for the --
21 obviously not for the truth of the matters asserted, but
22 just for background purposes so that we can get on such and
23 such a date he was formally charged, the charges were
24 amended on such and such a date, and it was amended for a
25 second time on such and such a date.

1 And I think if somebody wants to go read through
2 these things and see the development of the charges against
3 Mr. Rice, they can. And for that reason I think it belongs
4 in the record.

5 So I am going to overrule your objection.

6 By overruling the objection, I am not saying it's
7 a bad objection. I am just overruling it because I think it
8 should be -- it should be part of the record. I am using my
9 judgment.

10 Mr. Zauner, for whatever reason, made a judgment
11 that he wasn't going to put them in, and I think I want them
12 in just basically for background purposes.

13 (The documents referred to,
14 having been previously marked
15 for identification as Mass
16 Media Bureau Exhibit Nos. 12
17 and 13, were received in
18 evidence.)

19 JUDGE STEINBERG: Okay, and you will get me that
20 last page.

21 MR. ZAUNER: That may be in already, Your Honor.

22 JUDGE STEINBERG: Okay. Or if we can just
23 stipulate to the date, and that accomplishes the same
24 purpose.

25 Okay, anything else that we need to do today?

1 MR. GAFFNEY: Set a time.

2 JUDGE STEINBERG: Yes. What time do you want to
3 start?

4 MS. SADOWSKY: Eleven o'clock?

5 JUDGE STEINBERG: That's awful late because we
6 just can't -- okay, Ms. Cox is in town?

7 MS. SADOWSKY: Right. We have not met with Ms.
8 Cox.

9 JUDGE STEINBERG: Oh, you haven't met with her?

10 MS. SADOWSKY: No.

11 JUDGE STEINBERG: Oh, okay.

12 MR. GAFFNEY: If she is in town -- we're assuming
13 she is in town.

14 MS. SADOWSKY: Right, we don't know that she's in
15 town, but she was supposed to come in this afternoon.

16 JUDGE STEINBERG: Okay. Is 11 too late?

17 MR. GAFFNEY: We haven't had a chance to speak to
18 the other surrebuttal witnesses before.

19 MS. SADOWSKY: Right.

20 MR. ZAUNER: No objection, Your Honor.

21 JUDGE STEINBERG: Okay. Let me say if you need
22 more time with Mr. Hauschild, I mean, I understand you want
23 to get Ms. Cox in and out, so you can get her back to work.
24 So we can do Ms. Cox definitely tomorrow. If you need more
25 time with Mr. Hauschild, I don't have any problem to

1 extending it over the next day, or if you want to take a
2 lengthy break. You know, we can see what time we finish
3 with Ms. Cox, and perhaps take a lengthy break, and come
4 back. I am very flexible, and I want to be as fair as I can
5 with you. I don't want to rush you unnecessarily.

6 Sometimes it's necessary to rush you. Sometimes it's not.

7 Okay, so we will convene at 11:00 tomorrow?

8 MR. GAFFNEY: Yes, Your Honor.

9 JUDGE STEINBERG: Okay, so we will be in recess
10 until 11:00 tomorrow.

11 Thank you very much.

12 (Whereupon, at 3:15 p.m., the hearing was
13 recessed, to reconvene at 11:00 a.m., Wednesday, May 22,
14 1996.)

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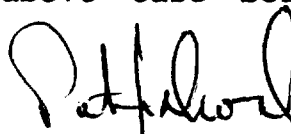
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FCC DOCKET NO.: 95-154
CASE TITLE: Contemporary Media, Inc.
HEARING DATE: May 21, 1996
LOCATION: Washington, D. C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date:

5-21-96



Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005
Peter Knight Shoner

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I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date:

5/29/96



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I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date:

5-30-96



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